

# **MINUTES OF THE COMMISSION FOR HUMAN RIGHTS**

**SEPTEMBER 25, 2009**

**A meeting of the Commission for Human Rights was held in the agency conference room on Friday, September 25, 2009. Present at the meeting were Dr. John B. Susa, Iraida Williams, Alton Wiley, Jr., Nancy Kolman Ventrone and Alberto Aponte Cardona. Commissioner Lee arrived at 9:25 am and Commissioner Vella-Wilkinson arrived at 9:40 am. Dr. Susa, Chair, called the meeting to order at 9:10 a.m.**

**A motion was made by Commissioner Ventrone to keep the minutes of the Executive Session held on August 28, 2009 closed pursuant to Rhode Island General Laws Sections 42-46-7(c), 42-46-4 and 42-46-5 because the minutes relate to a matter allowed to be held in executive session under Rhode Island General Laws Section 42-46-5(a)(1) and the Commission finds it appropriate to maintain them as closed minutes.**

**The motion was seconded by Commissioner Williams and carried.**

**A motion was made by Commissioner Williams to approve the minutes of August 28, 2009. The motion to approve was seconded by Commissioner Ventrone and carried.**

**Status Report: Michael D. Évora, Executive Director**



**A written report was handed out. All new information is in bold print.**

**Case Production Report – Attached**

**Aged Case Report - Attached**

**Outreach Report - Attached**

**STATUS REPORT - COMMISSIONERS-**

**GENERAL STATUS: No report at this time.**

**Commissioner Meeting -2- September 25, 2009**

**OUTREACH: Commissioner Vella-Wilkinson will attend a Labor Arbitration Conference in Newport in October.**

**STATUS REPORT - LEGAL COUNSEL by Cynthia M. Hiatt and Francis Gaschen**

**LITIGATION: Report Attached**



**LEGISLATION: No report at this time.**

**REGULATIONS: No report at this time.**

**HEARING SCHEDULE: Discussed**

**DECISIONS: No discussion at this time.**

**The meeting adjourned at 10:05 a.m. The next regular meeting will be October 30, 2009 at 9:00 A.M.**

**Respectfully Submitted,**

**Michael D. Évora  
Executive Director**

**Notes taken by: B. Ross**



**EXECUTIVE DIRECTOR'S  
REPORT TO COMMISSIONERS  
SEPTEMBER 25, 2009**

**I. BUDGET**

**S = State/General Revenue; F = Federal (EEOC/HUD); T = Total**

	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2010</b>	<b>FY 2010</b>
	<b>(Final)</b>	<b>(Request)</b>	<b>(Gov. Recomm.)</b>	<b>(Proposed)</b>
<b>S</b>	<b>924,424</b>	<b>868,444</b>	<b>1,016,242</b>	<b>1,016,242</b>
<b>F</b>	<b>472,455</b>	<b>406,615</b>	<b>408,505</b>	<b>408,505</b>
<b>T</b>	<b>1,396,879</b>	<b>1,275,059</b>	<b>1,424,747</b>	<b>1,424,747</b>

**The Commission's Revised FY 2010 and FY 2011 Budget Proposals are due to the Governor on October 1.**

**II. FEDERAL CONTRACTS**

**EEOC – For federal FY 2009 (ending 9/30/09), according to EEOC Project Director Marlene Toribio, we have closed 210 co-filed cases. We had been advised that our 2009 EEOC contract was for 256 cases; in May, we received the formal contract, which is for 217 cases. Nationally, EEOC has reduced each FEPA's 2009 contract by approximately 16%. In order to meet the contract, we must close an**



**additional seven cases by September 30.**

**HUD – For FY 10, according to HUD Project Director Angela Lovegrove, we have taken in 14 new housing charges, 12 of which are co-filed with HUD. Within this same time period, we have processed 10 housing charges, nine of which were co-filed with HUD. FY 2009 was a record year with respect to both intake and case processing. For that year, we took in 63 new charges, 55 of which were co-filed with HUD; we processed a total of 71 charges.**

### **III. PERSONNEL**

**Jason Flanders, Investigator, is tentatively scheduled to return to the office on or around October 1. Allison Cote, Sr. Compliance Officer, has done an exemplary job in handling issues that have arisen in Jason's cases during his absence.**

**On September 24, I was summoned to the Dept. of Administration and advised that, given the failure of the Union and Governor to reach an agreement regarding shutdown/furlough days, I would have to lay off two Council 94 staff members.**

### **IV. OUTREACH – Refer to attached report**



## **V. GENERAL STATUS**

**&#9679;Meetings with staff members – I continue to meet with individual investigative staff members on a monthly basis to monitor case production.**

**&#9679;Case Closures – Refer to attached report.**

**&#9679;Aged Cases – Refer to attached report.**

**As of October 1, 2009, we will have three aged cases in our inventory – one carryover from FY 2009 and two additional cases (one cofiled, in hearing stage; one non-cofiled, in investigation).**

**&#9679;Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 98. We ended FY 08 with approx. 370 cases in inventory. As of 9/16/09, we had a total of 352 cases in inventory; 59 of those cases were pending assignment. (On 9/22/09, 30 of the pending cases were assigned to investigative staff.)**

**&#9679;Federal Grant Opportunity - The federal Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC; under the U.S. Dept. of Justice) has announced the availability of funds for its public education grant program. The grant application process is open until April 27, 2009 and virtually all entities--including state and local agencies--are eligible to apply. Grants are awarded to organizations proposing to educate workers of their rights and**



employers of their responsibilities under the anti-discrimination provision of the Immigration and Nationality Act (INA). Grants typically range from \$35,000-\$100,000 with a term of 12 months.

Susan Pracht and I met with representatives of the International Institute of Rhode Island (IIRI) on April 13. We are partnering with the IIRI for the grant application process; the Commission proposes to be the chief grant recipient and to subcontract with IIRI to provide certain outreach and administrative services. The grant application was submitted on Saturday, April 25. On September 21, I received a letter from the U.S. Dept. of Justice/Civil Rights Division advising that we had not been selected for a grant. (12 selected from 73 applications.)

•Russian Dignitaries – From September 26 through 30, the Scituate and Massachusetts Rotary Clubs are co-hosting an Open World Program Delegation from Moldova (geographically Romania). The Open World Program is a Congressionally-sponsored program that brings emerging leaders from Russia, Ukraine, and other Eurasian states to the United States. The delegation is composed of mid- and high-level government officials and a professional interpreter. The goal is to give them firsthand exposure to the American system of democracy and free enterprise.

The focus of this visit will be on political ethics and ways to deal with political corruption. The delegation will visit the District Court and Probation Office, the RI Ethics Commission, the Board of Elections



**and the Attorney General's Office.**

**The Commission has been asked to host the delegation and provide an overview of the agency, its mission and its operations. The delegation is scheduled to visit the office at 11:00 a.m. on Monday, September 28, for about an hour.**

**&#9679;Commission Gift Policy – In accordance with Dr. Susa's request at April's Commission meeting, Summer Legal Intern John Bogue has researched and drafted language to be considered by the Commissioners in establishing a gift policy for the Commission. The language/options are being reviewed by Legal Counsels and will be presented at the next Commission meeting.**

**Respectfully submitted,**

**Michael D. Évora  
Executive Director**

**Attachments**

**To: Commissioners**

**From: Cynthia Hiatt and Frank Gaschen, Legal Counsels**

**Re: Litigation**

**Date: September 25, 2009**



**Recent developments are in bold.**

### **Christopher Antonelli Bankruptcy**

**On November 5, 2008 the Commission entered a Decision on damages in the case of DeAngelis v. Antonelli, et al. Thereafter Mr. Antonelli filed bankruptcy and included the RICHR as a creditor. Mrs. DeAngelis filed a suit in the Bankruptcy Court against Mr. Antonelli to have her award from the Commission non-discharged. Counsel for DeAngelis wants to obtain the Commission file for introduction in Bankruptcy Court.**

### **Aquidneck Island v. RICHR, et al.**

**This suit was brought by the plaintiff against multiple parties, alleging that liens have been placed on its property improperly. All liens were against Norman Cardinale not Aquidneck. Case is moot now.**

### **Atturio et al v. Évora**

**This is an appeal of a Commission decision that granted in part and denied in part a motion to quash a Commission subpoena. The Court upheld the decision of the Commission. A draft order was sent to plaintiffs' counsel. Counsel are working on the Order. Counsel and I are working on the wording of the Order. Date for hearing is 10-7-09 if we don't agree on wording in the meantime.**

### **Babbitt v. Crescent Park Manor, et al.**

**The Commission intervened as a party plaintiff in this case. Discovery**



is ongoing. A discovery deposition was held. A motion to assign the case for trial was granted.

#### **Bagnall v. RICHR and WLWC et al.**

The complainant appealed the Commission Decision and Order. The Commission filed the administrative record on April 12, 2006. On April 22, 2008, the complainant's attorney filed his brief. The Commission's Brief was filed on August 27, 2008. The Commission received the respondent's brief on December 5, 2008. The parties plan to move to have the appeal assigned to a judge for decision. The complainant's attorney has informed me that he may file a reply memo.

#### **Gaffney v Town of Cumberland et al**

The respondent appealed the Commission decision. In November, 2007, Judge Savage remanded the Commission Decision for the Commission to determine how the Commission would evaluate the evidence, given the conclusions reached in her decision. Judge Savage also asked the Commission to re-assess its Order. After numerous efforts to reach a resolution between the parties, on October 24, 2008, Commission Counsel notified the parties that on January 5, 2009, the Commission would commence reconsideration of the decision in light of Justice Savage's decision. The letter provided that the parties' counsel could submit memoranda on reconsideration on or before January 5, 2009. As requested, respondent's counsel sent in the relevant ordinances and regulations



in effect at the time in question and in effect at the present time. New counsel entered for the complainant on January 2, 2009. On Monday, January 26, 2008, the complainant's attorney requested a sixty day extension to submit a brief on Mrs. Gaffney's position. The request was granted by the hearing officer. The complainant submitted a memo/letter on April 8, 2009 and the respondents submitted a response on April 10, 2009. The respondents, upon request, supplied the zoning ordinance in effect in 1994.

#### **J.J. Gregory and Sons v. RI Commission for Human Rights and Brenda Zeigler**

The Commission found that J.J. Gregory and Sons discriminated against Brenda Zeigler because of her sex. J.J. Gregory and Sons filed an administrative appeal. Its appeal was amended to include an appeal of the Commission's Decision on Damages and Attorney's Fees. The Commission filed the administrative record with the Court on February 14, 2008. Respondent filed its brief on January 5, 2009. The complainant filed her brief on January 29, 2009. The Commission filed its brief on February 9, 2009. On February 10, 2009, the appeal was assigned to Judge Judith Savage for decision.

#### **Laboy v. Stat Health Services**

Counsel is trying to locate respondent's officers in order to ensure compliance with the Commission Decision and Order.

#### **MHRH v. RICHR and the Estate of Dr. John Satti**



**MHRH has appealed the Commission decision that MHRH retaliated against Dr. Satti and discriminated against him on the basis of his age. MHRH filed its Brief on August 7, 2008. On October 21, 2008, the Commission filed the administrative record. On January 14, 2009, the Commission filed its brief. The complainant's brief is pending.**

**RICHR (Breault) v. Elmhurst House, et al.**

**In this Fair Housing Practices Act case, the respondents elected to have the case heard in Superior Court. Suit on behalf of the Breaults was filed against four respondents in Providence Superior Court on January 27, 2009. Discovery is drafted and served upon defendants.**

**RICHR (Lovegrove) v. Escolastico**

**RI judgment was obtained and sent to FL lawyer for collection. Waiting for Lovegrove to forward funds to FL counsel to begin Supplementary Proceedings against Escolastico.**

**RICHR (Martin) v. Cardinale, et al.**

**A complaint alleging a transfer of real estate in violation of the Uniform Fraudulent Transfers Act was filed against Norman Cardinale, et al. Motions for Entry of Default were granted on January 21, 2009.**

**RICHR (Martin) v. Cardinale, et al.**

**A complaint alleging a transfer of partnership interests in real estate**



**in violation of the Uniform Fraudulent Transfers Act has been filed against defendants. Discovery commenced. Motions to compel will be filed.**

**RICHR (Morin) v. Teofilo Silva, et al.**

**A complaint for enforcement was filed on 3-24-05. Service of the complaint will be made once respondent can be located.**

**RICHR (Robinson) v. Geruso, Flagship Management, et al.**

**A complaint against six defendants has been filed in Superior Court alleging racial discrimination in a failure to rent case that went probable cause. The case is settled and HUD and the press notified. RICHR will monitor the case for three years and Angie will provide training within 30 days.**

**RICHR (Sousa) v. Galvin**

**A Miscellaneous Petition was filed in Providence County Superior Court to have a show cause hearing on whether Mr. Galvin should be held in contempt for failure to comply with two subpoenas duces tecum, either by appearing or sending the documents requested. Defendant avoiding service.**

**RICHR (Switzer) v. Principe**

**The respondents elected in this housing case that went probable cause on the basis of familial discrimination. Suit was filed in state court on January 27, 2009. Complaint amended to add another**



defendant and discovery propounded. Defendants' attorney given more time to answer and he would like to discuss settlement. Motions to compel and default were filed.

**RICHR (Costa, et al. v. Woonsocket Housing, et al.**

This case deals with a failure to reasonably accommodate the complainants' request to have two assistive dogs in one apartment. After a cause finding, both sides elected and suit was filed in the Superior Court. Discovery propounded and complaints sent to sheriff. Defendants' counsel informed suit was filed. Answer filed to complaint. Motion to compel and more discovery was filed.

**RICHR (Zeigler) v. Laura Sitrin, Finance Dir. of Newport**

Case resolved. Commission must annually monitor City training. Training completed for 2007. Notice be sent to the city regarding the annual training and no reply was given. Follow-up to be sent. Spoke with Detective and training will be scheduled shortly.

**Rite-Way Forms, Inc. v. State of Rhode Island, Commission for Human Rights and Christopher M. Ezersky**

On June 4, 2009, the Commission was served with respondent's appeal of the Commission Decision and Order, which found that the respondent harassed the complainant because of his disability, and the Commission Decision on Damages, which awarded attorney's fees and compensatory damages to the complainant. On August 14, 2009, the Commission received the respondent's Stipulation to



**dismiss the appeal. On August 31, 2009, the Commission issued a Decision and Order on the Complainant's Motion for Supplementary Attorneys Fees.**

**Sovereign Bank v. Builders Resources, Inc., et al.**

**The plaintiff petitioned the defendants into receivership. The commission has a charge pending against the named defendant, but was prevented from further action because the Court issued an Order staying all pending actions. Motion for Relief from Stay was granted.**

**Tucker v. Blue Cross**

**The complainant filed an administrative appeal of the Commission's finding of no probable cause. No action taken since appeal filed in 2004.**